

NUCLEAR REGULATORY COMMISSION AUTHORIZATION
ACT FOR FISCAL YEAR 2000

OCTOBER 26, 1999.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2531]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill
(H.R. 2531) to authorize appropriations for the Nuclear Regulatory
Commission for fiscal year 2000, and for other purposes, having
considered the same, report favorably thereon with an amendment
and recommend that the bill as amended do pass.

CONTENTS

	Page
Amendment	2
Purpose and Summary	4
Background and Need for Legislation	5
Hearings	7
Committee Consideration	7
Committee Votes	7
Committee Oversight Findings	7
Committee on Government Reform Oversight Findings	8
New Budget Authority, Entitlement Authority, and Tax Expenditures	8
Committee Cost Estimate	8
Congressional Budget Office Estimate	8
Federal Mandates Statement	10
Advisory Committee Statement	10
Constitutional Authority Statement	11
Applicability to Legislative Branch	11
Section-by-Section Analysis of the Legislation	11

Changes in Existing Law Made by the Bill, as Reported	14
Additional Views	19

AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Nuclear Regulatory Commission Authorization Act for Fiscal Year 2000”.

TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2000.

(a) COMMISSION.—There are authorized to be appropriated to the Nuclear Regulatory Commission, in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), \$465,400,000 for fiscal year 2000 to remain available until expended, of which \$19,150,000 is authorized to be appropriated from the Nuclear Waste Fund.

(b) OFFICE OF INSPECTOR GENERAL.—There are authorized to be appropriated to the Nuclear Regulatory Commission’s Office of Inspector General, in accordance with the provisions of section 1105(a)(25) of title 31, United States Code, \$6,000,000 for fiscal year 2000 to remain available until expended.

SEC. 102. ALLOCATION OF AMOUNTS AUTHORIZED.

(a) IN GENERAL.—The amounts authorized to be appropriated under section 101(a) for fiscal year 2000 shall be allocated as follows:

(1) NUCLEAR REACTOR SAFETY.—\$210,043,000 for the Nuclear Reactor Safety Program.

(2) NUCLEAR MATERIALS SAFETY.—\$63,881,000 for the Nuclear Materials Safety Program.

(3) NUCLEAR WASTE SAFETY.—\$42,143,000 for the Nuclear Waste Safety Program.

(4) INTERNATIONAL NUCLEAR SAFETY SUPPORT PROGRAM.—\$4,840,000 may be used for the International Nuclear Safety Support Program.

(5) MANAGEMENT AND SUPPORT PROGRAM.—\$144,493,000 for the Management and Support Program.

(b) LIMITATIONS.—The Nuclear Regulatory Commission may use not more than 1 percent of the amounts allocated under subsection (a) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to make grants and enter into cooperative agreements with organizations such as universities, State and local governments, and not-for-profit institutions. Grants made by the Commission shall be made in accordance with chapter 63 of title 31, United States Code, and other applicable law.

(c) REALLOCATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any amount allocated for a fiscal year pursuant to any paragraph of subsection (a) for purposes of the program referred to in the paragraph may be reallocated by the Nuclear Regulatory Commission for use in a program referred to in any other paragraph of subsection (a).

(2) LIMITATION.—The amount available from appropriations for use in any program specified in any paragraph of subsection (a) may not, as a result of reallocations made under paragraph (1), be increased or reduced by more than \$1,000,000 in a quarter, unless the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate are notified in advance by the Commission. The notification shall contain a full and complete statement of the reallocation to be made and the facts and circumstances relied upon in support of the reallocation.

(3) USE OF CERTAIN FUNDS.—Funds authorized to be appropriated from the Nuclear Waste Fund may be used only for the high-level nuclear waste activities of the Commission and may not be reallocated for other Commission activities.

SEC. 103. LIMITATION.

Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 104. NRC USER FEES AND ANNUAL CHARGES.

Section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(a)(3)) is amended by striking “September 30, 1999” and inserting “September 30, 2004”.

SEC. 105. COST RECOVERY FROM GOVERNMENT AGENCIES.

Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201w.) is amended—

(1) by striking “, or which operates any facility regulated or certified under section 1701 or 1702,”;

(2) by striking “483 a.” and inserting “9701”; and

(3) by inserting immediately before the period the following: “, and commencing October 1, 2000, prescribe and collect from any other Government agency any fee, charge, or price which it may require in accordance with such section 9701 or any other law”.

TITLE II—OTHER PROVISIONS

SEC. 201. CARRYING OF FIREARMS BY LICENSEE EMPLOYEES.

Section 161 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(k)) is amended to read as follows:

“k. authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize—

“(1) such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security; and

“(2) such of those employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of property of (A) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission, or (B) property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities;

to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person’s presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission or a licensee or certificate holder of the Commission, laws applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission pursuant to this subsection and property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission, or any provision of this chapter that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement this subsection.”

SEC. 202. UNAUTHORIZED INTRODUCTION OF DANGEROUS WEAPONS.

Section 229 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2278a(a)) is amended by adding after "custody of the Commission" the following: "or subject to its licensing authority or to certification by the Commission under this Act or any other Act".

SEC. 203. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.

Section 236 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2284(a)) is amended to read as follows:

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

"(1) any production facility or utilization facility licensed under this Act,

"(2) any nuclear waste storage, treatment, or disposal facility licensed under this Act,

"(3) any nuclear fuel for a utilization facility licensed under this Act or any spent nuclear fuel from such a facility,

"(4) any uranium enrichment or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission,

"(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during its construction where the destruction or damage caused or attempted to be caused could affect public health and safety during the operation of the facility,

shall be fined not more than \$10,000 or imprisoned for not more than 10 years, or both."

SEC. 204. PERIOD OF A COMBINED LICENSE.

Subsection c. of section 103 of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended by adding at the end the following: "In the case of a combined construction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, prior to operation of the facility, that the acceptance criteria required by such section have been met."

SEC. 205. OFFICE LOCATION.

Section 23 of the Atomic Energy Act of 1954 (42 U.S.C. 2033) is amended by striking "; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia".

SEC. 206. COMMISSION MEETINGS.

(a) CONDUCT OF MEETINGS.—Except as provided in subsection (b), the Nuclear Regulatory Commission shall hold any meeting in accordance with the regulations set forth in sections 9.100 through 9.109 of title 10 of the Code of Federal Regulations, as in effect on January 1, 1985.

(b) TRANSCRIPT REQUIREMENT.—The Commission shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of any closed meeting.

(c) DEFINITIONS.—For the purposes of this section—

(1) MEETING.—The term "meeting" has the meaning given such term in section 9.101(c) of title 10 of the Code of Federal Regulations, as in effect on January 1, 1985, and shall be construed to include preliminary discussions, and staff briefings, of a quorum of the members of the Commission involving official Commission business.

(2) CLOSED MEETING.—The term "closed meeting" has the meaning given such term in section 9.101(d) of title 10 of the Code of Federal Regulations, as in effect on January 1, 1985.

PURPOSE AND SUMMARY

H.R. 2531 authorizes the activities of the Nuclear Regulatory Commission (NRC or the Commission) for Fiscal Year 2000, extends the authorization for the NRC to collect 100 percent of its budget through user fees and annual charges to the end of Fiscal Year 2004, and makes a number of minor changes to the Commission's authorizing statutes. The NRC is responsible for regulating the Nation's utilization of radioactive materials and ensuring the protection of public health and safety.

BACKGROUND AND NEED FOR LEGISLATION

Congress established the NRC in the Energy Reorganization Act of 1974 (42 U.S.C. 5801 *et seq.*). As part of its broader requirement to consolidate all energy-related functions of the Federal government and create the Department of Energy (DOE), the Act also eliminated the Atomic Energy Commission (AEC) and created the NRC as an independent agency in its place.

Under its regulatory authorities as established under the Energy Reorganization Act (42 U.S.C. 5801 *et seq.*) and the Atomic Energy Act of 1954 (42 U.S.C. 2011 *et seq.*), the NRC is responsible for regulating the civilian use of radioactive materials, including industrial applications, medical and academic uses, and commercial nuclear power generation. Its regulatory role also extends to the transportation, storage, and disposal of nuclear materials and waste.

In general, any use of nuclear materials requires the user or handler to have a license issued by the Commission (or, in the case of approved Agreement States, by the involved State) to undertake such activities. This applies to nearly every aspect of matters involving nuclear materials—from the construction and operation of nuclear reactors, to the transportation or handling of radioactive materials, to the design of nuclear waste disposal sites. With this licensor/licensee relationship, the threat of license revocation and the use of civil penalties are the Commission's primary means of ensuring compliance with its regulations.

Until the 99th Congress, the NRC had received a regular biennial authorization from Congress. Since Fiscal Year 1985, the Commission has depended on the permanent statutory authority of the Atomic Energy Act (42 U.S.C. 2011 *et seq.*) and the Energy Reorganization Act (42 U.S.C. 5801 *et seq.*) to conduct its activities. The funding levels included in H.R. 2531 represent the Commission's request to Congress for Fiscal Year 2000. For Fiscal Year 2000, the NRC has requested a total of \$471,400,000 for its activities, an increase of 0.3 percent over the Fiscal Year 1999 enacted level of funding of \$469,800,000. The NRC budget is subdivided into five strategic arenas.

NUCLEAR REACTOR SAFETY

This function is responsible specifically for the regulation of civilian nuclear reactors, from the design and construction of reactors to their actual operation. Currently, there are 103 civilian power reactors licensed to operate in the United States, and 52 licensed non-power test and research reactors, of which 37 have current operating licenses. Programs under Nuclear Reactor Safety include: reactor licensing; reactor license renewal; reactor inspection; reactor performance assessment; reactor incident response; reactor operational experience evaluation; reactor technical training; reactor enforcement actions; reactor investigations; reactor and plant performance research; reactor materials and component behavior research; reactor legal advice; and reactor adjudication. For Fiscal Year 2000, H.R. 2531 authorizes \$210,043,000 for Nuclear Reactor Safety, slightly less than the Fiscal Year 1999 enacted level of \$210,350,000.

NUCLEAR MATERIALS SAFETY

Nuclear Materials Safety includes the regulation of nuclear fuel cycle facilities and nuclear materials activities, and encompasses more than 20,000 specific and 100,000 general licensees. These licensees are regulated by the Commission and by the 30 Agreement States. Nuclear Materials Safety includes the following programs: fuel facilities licensing and inspection; spent fuel storage and transportation licensing and inspection; nuclear materials users licensing and inspection; State programs; materials research; materials incident response; materials operational experience evaluation; materials technical training; materials enforcement actions; materials investigations; materials legal advice; materials adjudication; and regulatory assistance to the Department of Energy. H.R. 2531 authorizes \$63,881,000 in Fiscal Year 2000 for Nuclear Materials Safety, a 3.5 percent increase over the Fiscal Year 1999 enacted level of \$61,708,000.

NUCLEAR WASTE SAFETY

This strategic area of the NRC's mission includes activities associated with the safe disposal of spent fuel from reactors, licensing and inspection of spent nuclear fuel storage facilities and transportation canisters, nuclear waste from the decommissioning of nuclear facilities, and low-level radioactive waste from reactor operations and various other medical, academic, industrial, and commercial uses. This strategic arena also includes NRC's regulation of uranium recovery under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et. seq.*), as amended. Specific programs include: high-level waste regulation; regulation of low-level waste; regulation of decommissioning; radionuclide transport and decommissioning; uranium recovery licensing and inspection; and non-high-level waste safety advice. For Fiscal Year 2000, the bill authorizes \$42,143,000 for Nuclear Waste Safety, an 8.8 percent increase from the Fiscal Year 1999 enacted level of \$38,742,000. This figure includes an authorization for appropriation of \$19,150,000 from the Nuclear Waste Fund to pay for the high-level nuclear waste activities of the Commission.

INTERNATIONAL NUCLEAR SAFETY SUPPORT

In the international arena, the NRC is responsible for: representation of the United States in international policy forums; international nuclear policy formulation; licensing of exports and imports of nuclear materials and equipment; treaty implementation; international information exchange; international nuclear safety and safeguards assistance; and deterrence of nuclear proliferation. H.R. 2531 authorizes \$4,840,000 in Fiscal Year 2000 for International Nuclear Safety Support, a 23 percent increase over the Fiscal Year 1999 enacted level of \$3,931,000.

MANAGEMENT AND SUPPORT

This account includes all of the NRC's administrative and managerial support. For Fiscal Year 2000, H.R. 2531 authorizes \$144,493,000 for Management and Support, a 3.9 percent decrease from the Fiscal Year 1999 enacted level of \$150,269,000.

In addition to the aforementioned strategic arenas, the NRC's Inspector General is charged with broad responsibility for the independent review of all NRC programs, through audits, investigations, event inquiries, and special evaluations. This includes oversight of NRC's whistleblower investigation and protection programs. The bill authorizes \$6,000,000 Fiscal Year 2000 for its Inspector General program, an increase of 25% over the Fiscal Year 1999 enacted level of \$4,800,000.

HEARINGS

The Subcommittee on Energy and Power held a hearing on H.R. 2531, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 2000, on July 21, 1999. The Subcommittee received testimony from: The Honorable Greta Joy Dicus, Chairman, U.S. Nuclear Regulatory Commission; The Honorable Edward McGaffigan, Jr., Commissioner, U.S. Nuclear Regulatory Commission; The Honorable Jeffrey S. Merrifield, Commissioner, U.S. Nuclear Regulatory Commission; the Honorable Timothy Fields, Assistant Administrator for Solid Waste and Emergency Response, Environmental Protection Agency; Mr. Ralph Beedle, Senior Vice President and Chief Nuclear Officer, Nuclear Energy Institute; and Mr. David Adelman, Project Attorney, Natural Resources Defense Council.

COMMITTEE CONSIDERATION

On September 23, 1999, the Subcommittee on Energy and Power met in open markup session and H.R. 2531, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 2000, for Full Committee consideration, amended, by a voice vote. On September 29, 1999, the Committee on Commerce met in open markup session and ordered H.R. 2531 reported to the House, as amended, by a voice vote, a quorum being present.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House requires the Committee to list the record votes on the motion to report legislation and amendments thereto. There were no record votes taken in connection with ordering H.R. 2531 reported. An amendment by Mr. Markey to add a new section directing the Nuclear Regulatory Commission (NRC) to develop national standards for release of surface-contaminated and volumetrically-contaminated materials, prohibiting the release of volumetrically-contaminated materials until NRC issues a final rule, was withdrawn by unanimous consent. A motion by Mr. Bliley to order H.R. 2531 reported to the House, as amended, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee held a legislative hearing and made findings that are reflected in this report.

COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2531, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 2000, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 21, 1999.

Hon. TOM BLILEY,
*Chairman, Committee on Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2531, the Nuclear Regulatory Commission Authorization Act for Fiscal Year 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Hadley (for federal costs), Lisa Cash Driskill (for the state and local impact), and Jean Wooster (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON,
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 2531—Nuclear Regulatory Commission Authorization Act for
Fiscal Year 2000*

Summary: H.R. 2531 would authorize the appropriation of \$465 million in 2000 for the Nuclear Regulatory Commission (NRC) and \$6 million for the NRC's Office of Inspector General. Of these amounts, \$19 million would be authorized to be appropriated from the Nuclear Waste Trust Fund, with the remainder coming from the general fund of the Treasury. The bill would extend the NRC's authority to offset all of its general fund appropriations with fees and annual charges through 2004. Under current law, this author-

ity would otherwise expire at the end of fiscal year 2000. For 2000, the NRC has received an appropriation of \$465 million, and the NRC's Office of Inspector General received an appropriation of \$5 million. Thus, enactment of H.R. 2531 would authorize the appropriation of an additional \$1 million in 2000 above the amounts already appropriated for this agency.

H.R. 2531 would establish a new criminal penalty for the sabotage of nuclear production, utilization, or waste storage facilities. Because this provision would affect direct spending and receipts, pay-as-you-go procedures would apply to the bill, but CBO estimates such effects would be less than \$500,000 a year.

By extending the NRC's authority to collect fees from utilities, H.R. 2531 would impose both an intergovernmental and private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA). That mandate would not impose costs above the threshold established in UMRA for intergovernmental mandates (\$50 million in 1996, adjusted for inflation). CBO cannot, however, determine whether the direct costs of the mandate would exceed the annual threshold for private-sector mandates (\$100 million in 1996, adjusted for inflation) because UMRA does not clearly specify how to determine the direct costs associated with extending an existing mandate that has not yet expired. Depending on how they are measured, the direct costs to the private sector could exceed the threshold.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2531 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

	By fiscal year, in millions of dollars					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Net NRC Spending Under Current Law:						
Budget Authority ¹	20	23	0	0	0	0
Estimated Outlays	26	42	116	0	0	0
Proposed Changes:						
NRC Spending:						
Authorization Level	0	1	0	0	0	0
Estimated Outlays	0	1	0	0	0	0
Offsetting Collections:						
Authorization Level	0	-1	0	0	0	0
Estimated Outlays	0	-1	0	0	0	0
Net NRC Spending Under H.R. 2531:						
Budget Authority ¹	20	23	0	0	0	0
Estimated Outlays	26	42	116	0	0	0

¹ The 1999 and 2000 levels are the net amounts appropriated for those years (gross appropriations less offsetting collections).

Basis of estimate: For purposes of this estimate, we assume the additional \$1 million authorized for 2000 by this bill will be provided.

The bill also would establish a new criminal penalty for the sabotage of nuclear production, utilization, or waste storage facilities. CBO estimates that enacting this provision would increase government receipts by less than \$500,000 a year. Criminal fines are deposited in the Crime Victims Fund and are spent in subsequent years. Thus, any resulting change in direct spending from the fund would also amount to less than \$500,000 annually.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates that enacting H.R. 2531 would result in net changes in direct spending and governmental receipts of less than \$500,000 a year.

Intergovernmental and private-sector impact: The NRC currently collects annual fees from its licensees sufficient to offset its general fund appropriation. The NRC's existing authority to impose these fees expires at the end of fiscal year 2000. H.R. 2531 would extend the NRC's current authority to charge annual fees to offset all of its general fund appropriation through fiscal year 2004. The requirement to pay these fees would be both an intergovernmental and private-sector mandate as defined in UMRA.

Under current law, when the NRC's authority to collect fees to offset its general fund appropriation expires at the end of 2000, CBO estimates that the utilities would pay fees equal to about one-third of NRC's appropriation, or \$155 million in 2001. Under the extension of NRC's authority in H.R. 2531 and assuming the 2000 appropriation level is maintained through 2004, utilities would pay \$451 million in fees each year through 2004, or \$296 million more each year than they would pay under current law. Most of the annual fees would be paid by private, investor-owned nuclear utilities (less than 5 percent would be paid by nonfederal, publicly owned utilities).

CBO cannot determine whether this mandate would impose any costs as defined in UMRA because the law is unclear about how to measure costs associated with extending an existing mandate that has not yet expired. Measured against the costs that would be incurred if current law remains in place and the annual fee declines, the total cost to the private sector of extending this mandate would be \$296 million annually, beginning in fiscal year 2001. In that case, the cost of the mandate would exceed the annual threshold for the private sector as defined in UMRA. By contrast, the costs could be measured against the current level of fees. In that case, the mandate would impose no additional costs on the private sector because the fees under H.R. 2531 would not differ much from those currently in effect. In either case, CBO estimates that the total costs to state, local, and tribal governments would be below the threshold for intergovernmental mandates established in UMRA.

Estimate prepared by: Federal Costs: Mark Hadley; impact on State, Local, and Tribal Governments: Lisa Cash Driskill; and impact on the Private Sector: Jean Wooster.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

The section provides that the short title of the bill is the “Nuclear Regulatory Commission Authorization Act for Fiscal Year 2000.”

TITLE I—AUTHORIZATION

Section 101. Authorization of appropriations for fiscal year 2000

This section provides for an aggregate total authorization for NRC spending for Fiscal Year 2000 of \$465,400,000, of which \$19,150,000 is authorized to be appropriated from the Nuclear Waste Fund. It also authorizes a total of \$6 million for the NRC Inspector General in Fiscal Year 2000.

Section 102. Allocation of amounts authorized

The section allocates the aggregate funding to the NRC’s various programs: \$210,043,000 for Nuclear Reactor Safety; \$63,881,000 for Nuclear Materials Safety; \$42,143,000 for Nuclear Waste Safety; \$4,840,000 for the International Nuclear Safety Support Program; and \$144,493,000 for the Management and Support Program.

This section also limits to not more than one percent of the aggregate authorization, not including the amount authorized for the NRC Inspector General, the funds which may be utilized for grants and cooperative agreements with non-Federal organizations. This language also allows the Commission to reallocate resources to programs of the NRC, but requires the notification of the Committee on Commerce in the House and the Committee on Environment and Public Works in the Senate of such reallocation if involving more than \$1 million. Additionally, any funding from the Nuclear Waste Fund is limited solely for high-level nuclear waste activities and may not be reallocated for other NRC activities.

Section 103. Limitation

The section limits payments authorized under this Act for salaries or expenses to those amounts provided by appropriations. This language is required by section 401(a) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344, 88 Stat. 297).

Section 104. NRC user fees and annual charges

The section amends section 6101(a)(3) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388), to extend the NRC’s current authority to collect user fees and annual charges until September 30, 2004. NRC’s authority to collect these user fees and annual charges was provided in section 6101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508, 104 Stat. 1388), and was extended by subsequent Energy and Water Development Appropriations Acts until September 30, 2000.

Section 105. Cost recovery from government agencies

This section authorizes the Commission, beginning in Fiscal Year 2001, to assess and collect fees from other Federal agencies in return for services rendered by the NRC, rather than recovering these costs through the annual fees assessed to all NRC licensees. Existing authority in section 161w. of the Atomic Energy Act (42 U.S.C. 2235) provides for cost recovery only in limited situations. This section would authorize full cost recovery for the entire range of services that NRC provides to other Federal agencies. The reference to sections 1701 and 1702 of the Atomic Energy Act (42 U.S.C. 2297f *et seq.*) is deleted because gaseous diffusion facilities and other facilities for uranium enrichment are now operated by the United States Enrichment Corporation rather than by a Federal agency. The replacement of section 483a. with section 9701 is a correction to the proper United States Code reference.

TITLE II—OTHER PROVISIONS

Section 201. Carrying of firearms by licensee employees

This section authorizes guards at certain facilities licensed or certified by the Commission to carry and use weapons where necessary to protect the facilities or prevent the theft of special nuclear materials. This section also permits guards so authorized to carry firearms to make arrests without warrant under certain specified circumstances. The language also prevents guards at such facilities from being prosecuted under State law for the discharge of firearms in the performance of official duties.

Current statute permits such authority only for Department of Energy security forces, although several NRC-licensed or certified facilities also handle and store special nuclear materials. Under current statute, guards at these facilities are constrained by the restrictions of State law, which may allow the use of weapons by guards only to protect their own lives or the lives of others, and not to prevent the theft or sabotage of radioactive materials. The section extends the same authorities and protections granted to DOE guards to guards at certain sites licensed or certified by the NRC.

This provision could be a valuable asset in protecting national security assets which could be subject to theft or sabotage. The Committee expects that the NRC, in issuing its regulations to implement this authority, would limit its application to employees at those facilities engaged in the protection of property of significance to the common defense and security of the United States or being transported to and from such facilities. Such facilities include, but

are not limited to, production facilities licensed by the Commission which utilize special nuclear materials, or gaseous diffusion plants, at which guards must protect significant quantities of radioactive materials and the gaseous diffusion technology utilized to enrich uranium.

Section 202. Unauthorized introduction of dangerous weapons

This section expands current law authorizing the Commission to regulate the introduction of dangerous weapons onto its own facilities to include facilities licensed or certified by the Commission. This change ensures that the full range of facilities regulated by the Commission are subject to the statutory provisions prohibiting the introduction of unauthorized weapons or other dangerous instruments, providing an additional measure of security for materials which could be subject to theft or sabotage.

Section 203. Sabotage of nuclear facilities or fuel

The section expands current law prohibiting the sabotage or attempted sabotage of nuclear facilities to include nuclear waste treatment and disposal facilities and nuclear fuel fabrication facilities. This section also extends Federal criminal sanctions to the sabotage or attempted sabotage of NRC-licensed or certified facilities during the construction phase when public health and safety may be affected during subsequent facility operation. These changes ensure that the full range of NRC-licensed or certified facilities are covered under the statute's provisions.

Section 204. Period of a combined license

This section provides that the initial period of a combined construction and operating license for a production or utilization facility, as authorized by the Energy Policy Act of 1992 (Public Law 102-486, 106 Stat. 2776), may not exceed 40 years from the date on which the Commission finds that the acceptance criteria for such license required under Section 185(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2235) have been met.

Section 205. Office location

The section eliminates the requirement that the NRC maintain an office within the District of Columbia for the service of process and papers. Since the passage of section 23 of the Atomic Energy Act of 1954 (42 U.S.C. 2033), the Commission has consolidated its headquarters at a site in Rockville, Maryland. As a result, the statutory requirement to maintain an office for the service of process and papers within the District of Columbia is not necessary. Under the section, process would be served at the Commission's headquarters in Rockville, Maryland.

Section 206. Commission meetings

This section provides that NRC meetings must be held in accordance with the Government in the Sunshine Act (Public Law 94-409, 90 Stat. 1241) requirements of 10 C.F.R. 9.100 through 9.109 as in effect on January 1, 1985. The section requires the NRC to open its meetings to the public except under very limited circumstances and prohibits off-the-record meetings of the Commis-

sion. While the section would allow for closed meetings, it requires the NRC to maintain a complete transcript or electronic recording of any closed Commission meetings.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 6101 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990

SEC. 6101. NRC USER FEES AND ANNUAL CHARGES.

(a) ANNUAL ASSESSMENT.—

(1) * * *

* * * * *

(3) LAST ASSESSMENT OF ANNUAL CHARGES.—The last assessment of annual charges under subsection (c) shall be made not later than September 30, [1999] 2004.

* * * * *

ATOMIC ENERGY ACT OF 1954

* * * * *

TITLE I—ATOMIC ENERGY

* * * * *

CHAPTER 3. ORGANIZATION

* * * * *

SEC. 23. OFFICE.—The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place[; however, the Commission shall maintain an office for the service of process and papers within the District of Columbia].

* * * * *

CHAPTER 10. ATOMIC ENERGY LICENSES

* * * * *

SEC. 103. COMMERCIAL LICENSES.—

a. * * *

* * * * *

c. Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years, and may be renewed upon the expiration of such period. *In the case of a combined con-*

struction and operating license issued under section 185 b., the initial duration of the license may not exceed 40 years from the date on which the Commission finds, prior to operation of the facility, that the acceptance criteria required by such section have been met.

* * * * *

CHAPTER 14. GENERAL AUTHORITY

SEC. 161. GENERAL PROVISIONS.—In the performance of its functions the Commission is authorized to—

a. * * *

* * * * *

[k. authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States and located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems necessary in the interests of the common defense and security to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of (1) laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission, or (2) any provision of this Act that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary, with the approval of the Attorney General, shall issue guidelines to implement this subsection;]

k. *authorize such of its members, officers, and employees as it deems necessary in the interest of the common defense and security to carry firearms while in the discharge of their official duties. The Commission may also authorize—*

(1) such of those employees of its contractors and subcontractors (at any tier) engaged in the protection of property under the jurisdiction of the United States located at facilities owned by or contracted to the United States or being transported to or from such facilities as it deems nec-

essary in the interests of the common defense and security; and

(2) such of those employees of persons licensed or certified by the Commission (including employees of contractors of licensees or certificate holders) engaged in the protection of property of (A) facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission, or (B) property of significance to the common defense and security located at facilities owned or operated by a Commission licensee or certificate holder or being transported to or from such facilities;

to carry firearms while in the discharge of their official duties. A person authorized to carry firearms under this subsection may, while in the performance of, and in connection with, official duties, make arrests without warrant for any offense against the United States committed in that person's presence or for any felony cognizable under the laws of the United States if that person has reasonable grounds to believe that the individual to be arrested has committed or is committing such felony. An employee of a contractor or subcontractor or of a Commission licensee or certificate holder (or a contractor of a licensee or certificate holder) authorized to carry firearms under this subsection may make such arrests only when the individual to be arrested is within, or in direct flight from, the area of such offense. A person granted authority to make arrests by this subsection may exercise that authority only in the enforcement of laws regarding the property of the United States in the custody of the Department of Energy, the Nuclear Regulatory Commission, or a contractor of the Department of Energy or Nuclear Regulatory Commission or a licensee or certificate holder of the Commission, laws applicable to facilities owned or operated by a Commission licensee or certificate holder that are designated by the Commission pursuant to this subsection and property of significance to the common defense and security that is in the custody of a licensee or certificate holder or a contractor of a licensee or certificate holder of the Commission, or any provision of this chapter that may subject an offender to a fine, imprisonment, or both. The arrest authority conferred by this subsection is in addition to any arrest authority under other laws. The Secretary and the Commission, with the approval of the Attorney General, shall issue guidelines to implement this subsection;

* * * * *

w. prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104 b.], or which operates any facility regulated or certified under section 1701 or 1702,] any fee, charge, or price which it may require, in accordance with the provisions of section [483 a.] 9701 of title 31 of the United States Code or any other law, of applicants for, or holders of, such licenses or certificates, and commencing October 1, 2000, prescribe and collect from any other Government agency any fee, charge, or price

which it may require in accordance with such section 9701 or any other law.

* * * * *

CHAPTER 18. ENFORCEMENT

* * * * *

SEC. 229. TRESPASS UPON COMMISSION INSTALLATIONS.—

a. The Commission is authorized to issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapons, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property, into or upon any facility, installation, or real property subject to the jurisdiction, administration, or in the custody of the Commission *or subject to its licensing authority or to certification by the Commission under this Act or any other Act.* Every such regulation of the Commission shall be posted conspicuously at the location involved.

* * * * *

SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

[a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

[(1) any production facility or utilization facility licensed under this Act;

[(2) any nuclear waste storage facility licensed under this Act;

[(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility; or

[(4) any uranium enrichment facility licensed by the Nuclear Regulatory Commission.

shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both.]

a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

(1) any production facility or utilization facility licensed under this Act,

(2) any nuclear waste storage, treatment, or disposal facility licensed under this Act,

(3) any nuclear fuel for a utilization facility licensed under this Act or any spent nuclear fuel from such a facility,

(4) any uranium enrichment or nuclear fuel fabrication facility licensed or certified by the Nuclear Regulatory Commission,

(5) any production, utilization, waste storage, waste treatment, waste disposal, uranium enrichment, or nuclear fuel fabrication facility subject to licensing or certification under this Act during its construction where the destruction or damage caused or attempted to be caused could affect public health and safety during the operation of the facility,

shall be fined not more than \$10,000 or imprisoned for not more than 10 years, or both.

* * * * *

ADDITIONAL VIEWS

This bill has undergone significant improvements since it was introduced by request of the Nuclear Regulatory Commission (NRC). However, I remain concerned about a critical issue that is not yet addressed in it: the recycling of radioactive waste.

First the good news. The actual authorization levels, which are a straightforward extension from previous years, have never been an issue in this bill. And I support the provisions passed by the Commerce Committee to provide needed improvements to security at nuclear power plants: permit guards at nuclear plants to carry and use firearms when necessary to prevent the theft of nuclear materials or terrorism or sabotage at a nuclear facility, regulate the unauthorized introduction of dangerous weapons into nuclear facilities, and strengthen the penalties for sabotage of nuclear fuel and waste facilities.

I am even more pleased that several controversial measures contained in the legislation submitted by the Commission have been stricken from the legislation. These provisions include the elimination of foreign ownership restrictions on nuclear reactors, elimination of NRC antitrust reviews, elimination of requirements for on-the-record license hearings on uranium enrichment facilities, a proposal to strip EPA of its authority over cleanups at NRC licensed facilities, a proposal to give NRC gift acceptance authority, and a proposal to allow Commissioners to serve beyond their term of office.

An amendment offered by myself, which the Subcommittee approved by voice vote, assures that the NRC conducts its business in public to the maximum extent possible. This amendment reverses the NRC's decision last summer to revive a proposed rule change that had been mothballed for 14 years. The rule change would allow the NRC to close to the public some meetings of the full Commission on general topics. Under the revised rule the Commission could hold closed meetings with no public notice, no transcript or tape, no minutes, and no record that the meeting took place. The provision in this bill would force the NRC to revert to its previous rule, which allowed closed meetings only for specific content-based reasons, such as to protect national security or trade secrets. It also requires the Commission to keep transcripts or recordings of all closed meetings. It's a good provision that strengthens the bill and enhances public oversight of and confidence in the NRC's operations.

A second amendment, on recycling of radioactive wastes, I, along with Representative Klink, offered but withdrew at the request of the Committee and Subcommittee Chairmen with a promise from them to work toward a modified provision that they could accept. Materials used in nuclear facilities with surfaces that have become radiologically contaminated have been cleaned and recycled for

some years under 1974 guidelines. Recently the State of Tennessee granted a license to BNFL Inc. for release into interstate commerce of 6,000 tons of nickel that has been “volumetrically” contaminated at the Department of Energy’s (DOE’s) Oak Ridge facility. BNFL intends to sell the metal for recycling. Tennessee granted the license even though there is no national standard for release of such contaminated material, and did so without public notice or public participation. But the metal could be sold throughout the country and perhaps could end up in the fillings in our teeth or the nickels in our pockets. As more and more nuclear power plants are decommissioned, and more DOE facilities are cleaned up, the amount of material available for recycling will skyrocket. DOE plans to recycle 2 million tons of radioactive metal just from its facilities.

Even materials that are only slightly contaminated will cause chronic low levels of radiation exposure, which cause greater risk for cancer and birth defects. And although the average radioactivity of a volumetrically contaminated block of metal may be low, the radioactive contamination may be concentrated in hot spots that are difficult or impossible to detect and remove. If your fillings, or braces, or silverware, or watch bands are made from one of those hot spots, you may be subject to more concentrated radiation and greater cancer risk.

The workers at metal recyclers and manufacturing plants are probably at greatest risk. Workers are exposed to large quantities of the metal on a daily basis, and workers conducting operations such as melting, cutting, or filing the metal are likely to inhale or ingest radioactive particles. Yet the risk assessment done for the Tennessee license did not even consider the risk to workers at manufacturing plants, illustrating the problems of allowing states to issue licenses with no governing standards or other guidelines.

The amendment that was proposed at the Committee markup would have required the NRC to promulgate a national rule on the transfer or sale of radiologically contaminated materials. NRC would be required to include two options in the proposed rule: a permanent ban on radioactive recycling, and a standard that is fully protective of public health and safety and that would require residual contamination to be as low as reasonably achievable. The final rule would follow one of these two options. The amendment also would have prohibited the recycling or reuse of volumetrically contaminated materials, except at DOE facilities or NRC licensees, until a final rule is issued.

Once radioactive materials are released into general commerce, they cannot be called back. It is vital that releases be stopped unless carefully considered, publicly vetted national rules governing releases are put in place. I am hopeful that as this bill moves to the floor, we can include language in the Authorization which effectively addresses this important matter.

EDWARD J. MARKEY.